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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,906	11/27/2001	Jax B. Cowden	10005.000120	7660
31894	7590	08/03/2005	EXAMINER	
OKAMOTO & BENEDICTO, LLP P.O. BOX 641330 SAN JOSE, CA 95164			DIVECHA, KAMAL B	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,906

Applicant(s)

COWDEN ET AL.

Examiner

KAMAL B. DIVECHA

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Claims 1-9 are pending in this Action.

Applicant has amended claims 1-9. Therefore, the examiner withdraws previous 35 USC 112, 1st paragraph rejection made to claim 1. Examiner further withdraws the objection made with respect to drawings.

Applicant has cancelled claim 10 in response filed on June 15, 2005.

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the computer program" in the claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether "the computer program" is a computer program that is distributed or a partially disabled computer program.

Claims 2-9, they recite the same limitations as in claim 1. Therefore, claims 2-9 are rejected for the same reasons as set forth in claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over InfoWorld Publishing Co. (hereinafter InfoWorld, "Release Software and Demo 97 Demoletter to Provide Real Demos online", pp. 1-2, February 5, 1997) in view of Humes (U. S. Patent No. 5,996,011).

InfoWorld discloses: In a computer, a method of distributing computer program (read as software) comprising: installing a partially disabled computer program (read as a demo or trial version of the software) in the computer; informing a user of usefulness of the computer program; offering the computer program to the user after installing of the partially disabled computer program in the computer and providing the computer program to the user if the user

accepts the offer (pg. 1 paragraph #3), however InfoWorld does not explicitly disclose a process of using the computer program to detect a need for the computer program in the computer.

Humes, from the same field of endeavor discloses a computer program for filtering or blocking the certain types of websites or web pages (that is this computer program detects a need for computer program in the computer as per applicant claim 3, see abstract, fig. 3, col. 2 L31 to col. 3 L22, col. 4 L10-20). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Humes with InfoWorld in order to detect a need for the computer program. One of ordinary skilled in the art would have been motivated because it would provided the users the ability to try before they buy the software over the Internet.

As per claim 2, InfoWorld does not explicitly disclose the process wherein the software includes detecting the occurrence of a type of window. Humes discloses the process wherein the computer program detects the occurrence of the certain type of websites or web pages (read website or web page as a type of window, see abstract, fig. 3, col. 2 L31 to col. 3 L22, col. 4 L10-20). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Humes with InfoWorld in order to the process of using the computer program to detect a need for the computer program in the computer by detecting the occurrence of a type of window. One of ordinary skilled in the art would have been motivated because it would have showed user the usefulness of the computer program by simply demonstrating the functions of detecting the occurrence of type of window by the computer program.

As per claim 3, InfoWorld does not explicitly disclose the process of informing the user a number of a type of window detected by the computer program. Humes discloses the process of informing the user when the website or web page is prohibited for display (that is Humes teaches informing the user when the computer program detects a prohibited web page, fig. 3, col. 2 L31 to col. 3 L22, col. 4 L10-20). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Humes with InfoWorld in order to inform a user a number of type of window detected by the computer program. One of ordinary skilled in the art would have been motivated because of the same reasons as set forth in claim 2.

As per claim 4, InfoWorld discloses the process of activating the full version of computer program after the demo or trial version expires and user purchases the software (pg. 1 paragraph #3).

As per claim 6, InfoWorld discloses the process of distributing computer programs or softwares (pg. 1 para. 3), however InfoWorld does not explicitly disclose the process of distributing a window-blocking computer program. Humes discloses a window-blocking computer program (col. 2 L31 to col. 3 L22, col. 4 L10-20). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify InfoWorld in order to distribute the window-blocking compute program, in view of Humes since Humes discloses the window-blocking computer program. One of ordinary skilled in the art would have been motivated because it would enabled users to obtain the software efficiently over the Internet.

As per claims 7-9, they do not teach or further define over the limitation in claims 1-4 and 6. Therefore, claims 7-9 are rejected for the same reasons as set forth in claims 1-4 and 6.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over InfoWorld Publishing Co. (hereinafter InfoWorld, "Release Software and Demo 97 Demoletter to Provide Real Demos online", pp. 1-2, February 5, 1997) in view of Humes (U. S. Patent No. 5,996,011), and further in view of Teng et al. (hereinafter Teng, U. S. Patent No. 6,094,679).

As per claim 5, InfoWorld in view of Humes does not explicitly disclose the process wherein the act of providing the computer program to a user includes downloading components of the computer program from a remote computer. Teng, from the same field of endeavor discloses the process of downloading computer programs from a remote computer (col. 6 L52-55, col. 5 L59-61 and col. 3 L21-60). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Teng as stated above with InfoWorld in view of Humes in order to download the files of the computer program from a remote computer. One of ordinary skilled in the art would have been motivated because most of the software are made available at a central location or at remote site of the software distributors web site and therefore it would have to be downloaded from their remote computer.

Additional References

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see also PTO-892 mailed on 03/25/2005).

- a. NPL, Software Corporation Receives Financial backing for embedded sales Agent Technology, pp. 1-2, March 4, 1996, document #0920661.

- b. NPL, CINECOM offers CineVideo Direct on BUYDIRECT.COM, pp. 1-2, January 15, 1997, document #1043564.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Flex schedule 8 hr days (10.00am-6.30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



July 29, 2005.



ZARNI MAUNG
SUPERVISORY PATENT EXAMINER